

Office of the Secretary, HUD

§ 50.17

(d) *Sole source aquifers.* The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 *et seq.*, and 21 U.S.C. 349), as amended. (See 40 CFR part 149.)

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended. (See 50 CFR part 402.)

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act (16 U.S.C. 1271 *et seq.*), as amended.

(g) *Water quality.* The Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), and later enactments.

(h) *Air quality.* The Clean Air Act (42 U.S.C. 7401 *et seq.*), as amended. (See 40 CFR parts 6, 51, and 93.)

(i) *Solid waste management.* (1) The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*), and later enactments.

(2) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*), as amended.

(j) *Farmlands protection.* The Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*), as amended. (See 7 CFR part 658.)

(k) *HUD environmental standards.* Applicable criteria and standards specified in HUD environmental regulations (24 CFR part 51).

(l) *Environmental justice.* Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (3 CFR, 1994 Comp., p. 859).

Subpart B—General Policy: Responsibilities and Program Coverage

§ 50.10 Basic environmental responsibility.

(a) It is the responsibility of all Assistant Secretaries, the General Counsel, and the HUD approving official to assure that the requirements of this part are implemented.

(b) The Assistant Secretary for Community Planning and Development (A/S CPD), represented by the Office of Community Viability, whose Director shall serve as the Departmental Environmental Clearance Officer (DECO), is

assigned the overall Departmental responsibility for environmental policies and procedures for compliance with NEPA and the related laws and authorities. To the extent permitted by applicable laws and the CEQ regulations, the A/S CPD shall approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

§ 50.11 Responsibility of the HUD approving official.

(a) The HUD approving official shall make an independent evaluation of the environmental issues, take responsibility for the scope and content of the compliance finding, EA or EIS, and make the environmental finding, where applicable. (Also, see § 50.32.)

(b) Copies of environmental reviews and findings shall be maintained in the project file for projects, in the rules docket files for FEDERAL REGISTER publications, and in program files for non-FEDERAL REGISTER policy documents.

Subpart C—General Policy: Decision Points

§ 50.16 Decision points for policy actions.

Either an EA and FONSI or an EIS on all policy actions not meeting the criteria of § 50.19 shall be completed prior to the approval action. Policy actions include all proposed FEDERAL REGISTER policy documents and other policy-related Federal actions (40 CFR 1508.18). The decision as to whether a proposed policy action is categorically excluded from an EA shall be made by the Program Environmental Clearance Officer (PECO) in Headquarters as early as possible. Where the PECO has any doubt as to whether a proposed action qualifies for exclusion, the PECO shall request a determination by the AS/CPD. The EA and FONSI may be combined into a single document.

§ 50.17 Decision points for projects.

Either an EA and FONSI or an EIS for individual projects shall be completed before the applicable program decision points below for projects not meeting the criteria of § 50.20. Compliance with applicable authorities cited in § 50.4 shall be completed before the

§ 50.18

applicable program decision points below unless the project meets the criteria for exclusion under § 50.19.

(a) *New Construction.* (1) Project mortgage insurance or other financial assistance for multifamily housing projects (including sections 202 and 811), nursing homes, hospitals, group practice facilities and manufactured home parks: Issuance of Site Appraisal and Market Analysis (SAMA) Letter or initial equivalent indication of HUD approval of a specific site;

(2) *Public Housing: HUD approval of the proposal.*

(3) *Loan Guarantee Recovery Fund Program (24 CFR part 573).* HUD issuance of a letter of commitment or initial equivalent indication of HUD approval.

(b) *Rehabilitation projects.* Use the decision points under “new construction” for HUD programs cited in paragraph (a) of this section; otherwise the decision point is the HUD project approval.

(c) *Public housing modernization programs.* HUD approval of the modernization grants.

(d) *Property Disposition.* Multifamily structures, college housing, nursing homes, manufactured homes and parks, group practice facilities, vacant land and one to four family structures: HUD approval of the Disposition Program.

(e) *HUD programs subject to 24 CFR part 58.* For cases in which HUD exercises environmental responsibility under this part where a recipient lacks legal capacity to do so or HUD determines to do so in place of a non-recipient responsible entity under 24 CFR part 58 (see § 50.1(d)), the decision point is: HUD’s execution of an agreement or contract, whichever comes first, or in the case of Section 8 Project-Based Certificate Assistance and Moderate Rehabilitation, HUD notification to the Public Housing Agency to proceed with execution of an Agreement to Enter into Housing Assistance Payments (HAP) Contract.

(f) *Section 50.3(h).* Notwithstanding the other paragraphs of this section, the decision point for grant programs in which HUD approval of funding for an applicant’s program must occur before the applicant’s selection of properties for use in its program is: HUD approval of specific properties.

24 CFR Subtitle A (4–1–03 Edition)

(g) *Stewart B. McKinney Homeless Assistance Act Programs.* Where the recipients are nonprofit organizations or governmental entities with special or limited purpose powers, the decision point is: HUD project approval.

(h) *Programs not specifically covered in this section.* Consult with the AS/CPD for decision points.

Subpart D—General Policy: Environmental Review Procedures

§ 50.18 General.

HUD may, from time to time, complete programmatic reviews that further avoid the necessity of complying with the laws and authorities in § 50.4 on a property-by-property basis.

§ 50.19 Categorical exclusions not subject to the Federal laws and authorities cited in § 50.4.

(a) *General.* The activities and related approvals of policy documents listed in paragraphs (b) and (c) of this section are not subject to the individual compliance requirements of the Federal laws and authorities cited in § 50.4, unless otherwise indicated below. These activities and approvals of policy documents are also categorically excluded from the EA required by NEPA except in extraordinary circumstances (§ 50.20(b)). HUD approval or implementation of these categories of activities and policy documents does not require environmental review, because they do not alter physical conditions in a manner or to an extent that would require review under NEPA or the other laws and authorities cited at § 50.4.

(b) *Activities.* (1) Environmental and other studies, resource identification and the development of plans and strategies.

(2) Information and financial advisory services.

(3) Administrative and management expenses.

(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs.